

CITY COUNCIL AGENDA ITEM COVER MEMO

Agenda Item Number _____

Meeting Type: Regular

Meeting Date: 9/12/2013

Action Requested By:
Human Services

Agenda Item Type
Resolution

Subject Matter:

Agreement between the City of Huntsville and VSP for the City's group vision insurance.

Exact Wording for the Agenda:

Resolution authorizing the Mayor to execute a modification to the agreement between the City of Huntsville and VSP for the purpose of providing the City's group vision benefits.

Note: If amendment, please state title and number of the original

Item to be considered for: Select...

Unanimous Consent Required: Select...

Briefly state why the action is required; why it is recommended; what Council action will provide, allow

and accomplish and; any other information that might be helpful.

This contract is needed to provide for the modification to rates to include the 2% ACA tax for voluntary vision insurance for the City's employees.

Associated Cost:

Budgeted Item: Select...

MAYOR RECOMMENDS OR CONCURS: Select...

Department Head: 

Date: 9/6/2013

ROUTING SLIP CONTRACTS AND AGREEMENTS

Originating Department: Human Resources

Council Meeting Date: 9/12/2013

Department Contact: Deloise Manning

Phone # 256-427-5241

Contract or Agreement: Modification to amend the Group Vision Plan Policy agreement

Document Name: Modification No. 2 to Amend the Group Vision Plan Policy

City Obligation Amount:

Total Project Budget:

Uncommitted Account Balance:

Account Number:

Procurement Agreements

<u>Select...</u>	<u>Select...</u>
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Grant-Funded Agreements

<u>Select...</u>	<u>Grant Name:</u>
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Department	Signature	Date
1) Originating	<i>Robert X. Harris</i>	9/6/13
2) Legal	<i>Barry C. Cook</i>	9/6/13
3) Finance <i>OC</i>	<i>[Signature]</i>	9/9
4) Originating		
5) Copy Distribution		
a. Mayor's office (1 copies)		
b. Clerk-Treasurer (Original & 2 copies)		

RESOLUTION NO. 13-_____

WHEREAS the City of Huntsville, does hereby declare in accordance with Code of Alabama (1975) that the Mayor be, and he is hereby authorized to enter into a Business Associate Agreement between the City of Huntsville and Vision Service Plan Insurance Company, on behalf of the City of Huntsville, a municipal corporation in the State of Alabama, which said agreement is substantially in words and figures similar to that certain document attached hereto and identified as "Modification No. 2 to Amend the Group Vision Plan Policy Between the City of Huntsville, Alabama, and Vision Service Plan Insurance company as approved by Resolutions No. 09-885 and amended by Resolution No. 12-837 and related documents consisting of eight (8) pages and the effective date of January 1, 2014, and the date of September 12, 2013 appearing on the margin of the first page, together with the signature of the President or President Pro Tem of the City Council, an executed copy of said document being permanently kept on file in the Office of the City Clerk-Treasurer of the City of Huntsville, Alabama.

ADOPTED this the 12th day of September, 2013.

President of the City Council of
the City of Huntsville, Alabama

APPROVED this the 12th day of September, 2013.

Mayor of the City of
Huntsville, Alabama

Modification No. 2 to Amend the
Group Vision Plan Policy Between the
City of Huntsville, Alabama, and
Vision Service Plan Insurance Company
as approved by Resolutions No. 09-885
and amended by Resolution No. 12-837

STATE OF ALABAMA

COUNTY OF MADISON

MODIFICATION NO. 2 TO AMEND THE AGREEMENT

THIS MODIFICATION No. 2 to the Group Vision Plan Policy Agreement, is entered into by and between the City of Huntsville, Alabama (City) and Vision Service Plan Insurance Company (VSP).

WITNESSETH

WHEREAS, VSP previously issued a group vision plan policy to the City: and

WHEREAS, the City previously agreed to be bound by the terms and conditions of the said policy as authorized by the Resolution No. 09-885; and

WHEREAS, the original term of the policy expired on December 31, 2011; and

WHEREAS, the parties have entered into Modifications to Renew and Extend Agreement to renew the said policy in subsequent years; and

WHEREAS, the current term of said policy will expire on December 31, 2014; and

WHEREAS, the parties wish to amend the agreement for the period of January 1, 2014 through December 31, 2014,

NOW THEREFORE, in consideration of the mutual covenants set forth herein, VSP and the City agree as follows:

1. The parties intend and agree to be bound by the terms and conditions contained in the group vision policy, as amended pursuant to this Agreement and the "City of Huntsville ACA Health Insurance Provider Fee Rate Adjustment Notification" attached hereto and incorporated herein by reference as Exhibit "A".

2. The "HIPAA Business Associate Addendum: Group Health Plan" attached to and incorporated into the group vision plan is hereby deleted and replaced in its entirety with the "Business Associate Agreement" attached hereto and incorporated herein by reference as Exhibit "B".

President of the City Council of the
City of Huntsville, Alabama
Date: _____

June 10, 2013

Ms. Lori Smith
COBBS, ALLEN & HALL INC.
115 Office Park Drive, Suite 200
Mountain Brook, AL 35223-2423

**RE: CITY OF HUNTSVILLE
ACA HEALTH INSURANCE PROVIDER FEE RATE ADJUSTMENT NOTIFICATION**

Dear Lori,

On March 4, 2013, the IRS published in the Federal Register a rulemaking that will require VSP and others that sell fully-insured vision, dental and medical insurance policies to pay a Health Insurance Provider Fee (HIPF) to the IRS starting in 2014. As you know, City of Huntsville fully insures their VSP Program. In order to comply with this federal legislation, VSP will be increasing their current rate by 2% effective January 1, 2014.

While City of Huntsville is in the middle of a rate guarantee and not scheduled to renew again until January 1, 2015, this fee is still applicable. Effective January 1st, 2014, City of Huntsville will receive a 2% rate increase off-renewal to accommodate the ACA Health Insurance Provider Fee.

Please see the current rates, ACA Fee and 2014 Total Premium Listed below

Current Rate VSP Renewal Rate Period 1/1/13-12/31/2014		2014 ACA TAX	2014 Total Premium
Active/Retirees		2%	Active/Retirees
Employee Only:	\$6.66		Employee Only: \$6.80
Employee + One dependent:	\$12.69		Employee + One dependent: \$12.95
Employee + Family	\$17.96		Employee + Family \$18.33
Cobra		2%	Cobra
Employee Only:	\$6.79		Employee Only: \$6.96
Employee + One dependent:	\$12.94		Employee + One dependent: \$13.20
Employee + Family	\$18.32		Employee + Family \$18.69

Once the rate change has been made, VSP will send out an amendment outlining the rate adjustment that will act as confirmation of the change and an amendment to the contract.

Ms. Lori Smith
June 10, 2013
Page Two

Lori, I would like to thank you in advance for your partnership through this roll-out and for your continued support of VSP.

Please do not hesitate to contact me if you have questions or if you need additional information.

Cordially,

Erik Gawthorpe

Erik Gawthorpe

Please click [here](#) for more information on the Federal Register rulemaking.

Business Associate Agreement
Effective Date: January 1, 2013

1. Definitions

- (a) "Business Associate" shall mean Vision Service Plan (VSP).
- (b) "Covered Entity" shall mean *City of Huntsville* group vision plan.
- (c) "Individual" shall have the same meaning as the term "individual" is used in 45 CFR 160.103, and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).
- (d) "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information in 45 CFR part 160 and part 164, subparts A and E.
- (e) "Protected Health Information" shall have the same meaning as the term "protected health information" in 45 CFR 160.103, limited to the information created or received by Business Associate on behalf of Covered Entity.
- (f) "Electronic Protected Health Information" shall have the same meaning as the term "electronic protected health information" as defined in 45 CFR 160.103.
- (g) "Required By Law" shall have the same meaning as the term "required by law" in 45 CFR 164.103.
- (h) "Secretary" shall mean the Secretary of the Department of Health and Human Services or designee.
- (i) "Security Rule" shall mean the Security Standards in 45 CFR parts 160, 162, and 164.

Terms used but not otherwise defined in this Agreement shall have the same meaning as the meaning ascribed to those terms in the Health Information Portability and Accountability Act of 1996, as codified at 42 U.S.C. § 1320d ("HIPAA"), the Health Information Technology Act of 2009, ("HITECH Act"), as set forth in Sections 13400 through 13424, inclusive, of Public Law 111-5, or any current and future regulations promulgated under either. HIPAA, HITECH Act and any current and future regulations promulgated under either are collectively referred to herein as the "Regulations".

2. Obligations and Activities of Business Associate

Business Associate agrees:

- (a) Not to use or further disclose Protected Health Information other than as permitted or required by this Agreement or as Required By Law.
- (b) To limit uses and disclosures of protected health information to the minimum necessary for that use or disclosure.
- (c) To use appropriate safeguards to prevent the use or disclosure of the Protected Health Information other than as provided for by this Agreement.

(d) To assist Covered Entity to mitigate, to the extent practicable, any harmful effect that is known to Business Associate, of a use or disclosure of Protected Health Information by Business Associate, in violation of the requirements of this Agreement.

(e) To immediately report to Covered Entity, any use or disclosure of the Protected Health Information, including Electronic Protected Health Information, not provided for by this Agreement.

(f) To ensure that any agent, including any subcontractor, to whom it provides Protected Health Information or Electronic Protected Health Information, received from, or created or received by, Business Associate, on behalf of Covered Entity, agrees to the same restrictions and conditions that apply to Business Associate under this Agreement.

(g) To provide access to Protected Health Information in a Designated Record Set, in the time and manner, requested and/or directed by Covered Entity, to an Individual in order to meet the requirements under 45 CFR 164.524.

(h) To make any appropriate amendment(s) to Protected Health Information in a Designated Record Set, pursuant to 45 CFR 164.526, and in the time and manner, as Covered Entity or Individual directs or agrees.

(i) To conduct, where applicable, electronic transactions, for which the Department of Health and Human Services has established standards, on behalf of the Covered Entity pursuant to the requirements in 45 CFR Part 162, and to require that any agent or subcontractor involved in conducting these transactions maintains compliance with these requirements.

(j) To make internal practices, books, and records relating to the use and disclosure of Protected Health Information available to Covered Entity, or at the request of Covered Entity to the Secretary, in the time and manner designated by the Covered Entity or the Secretary, for purposes of determining Covered Entity's compliance with the Privacy Rule.

(k) To document disclosures of Protected Health Information and related information as required of Covered Entity to respond to any request from Individual for an accounting of such disclosures in accordance with 45 CFR 164.528.

(l) To provide to Covered Entity or Individual, in time and manner directed by Covered Entity, any and all information sufficient to permit Covered Entity to respond to any request from Individual for an accounting of disclosures pursuant to 45 CFR 164.528.

(m) To maintain appropriate administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of Electronic Protected Health Information that it creates, receives, maintains, or transmits on behalf of the Covered Entity as required by the Security Rule.

(n) Ensure that any agent, including a subcontractor, to whom it provides such information agrees to implement reasonable and appropriate safeguards to protect it;

(o) Comply with requests from Covered Entity to restrict the use or disclosure of Protected Health Information as agreed by Covered Entity pursuant to 45 CFR 164.522. and

(p) Business Associate agrees to notify Covered Entity of any use or disclosure of Protected Health Information by Business Associate or any contractor or subcontractor of Business Associate not permitted by this Agreement, or of any Breach (as defined in 45 CFR 164.402) of Unsecured Protected Health Information (as defined in 45 CFR 164.402).

1. Business Associate shall provide the following information to Covered Entity within ten (10) business days of discovery of a breach related to the information of one or more individuals whose group vision coverage is arranged by Covered Entity, except when despite all reasonable efforts by Business Associate to obtain the information required, circumstances beyond the control of the Business Associate necessitate additional time. Under such circumstances Business Associate shall provide to Covered Entity the following information as soon as possible and without unreasonable delay, but in no event later than thirty (30) calendar days from the date of discovery of a breach:
 - a. the date of the breach;
 - b. the date of the discovery of the breach;
 - c. a description of the types of unsecured Protected Health Information that were involved;
 - d. identification of each individual who is enrolled in the group vision plan administered on behalf of Covered Entity and whose unsecured Protected Health Information has been, or is reasonably believed to have been, accessed, acquired, or disclosed.
 - e. any other details necessary to complete an assessment of the risk of harm to the individual; and,
 - f. a description of what has been done to cease the immediate loss of data along with any associated long-term data loss prevention measures which are being developed.
2. Covered Entity will be responsible to provide notification to individuals whose unsecured Protected Health Information has been improperly disclosed by Covered Entity, as well as the Secretary and the media, as required by Sec. 13402 of the HITECH Act, 42 U.S.C.A. § 17932.
3. Business associate agrees to establish procedures to investigate the breach, mitigate losses, and protect against any future breaches, and to provide a description of these procedures and the specific findings of the investigation to Covered Entity in the time and manner reasonably requested by Covered Entity.

3. General Use and Disclosure Provisions

Except as otherwise limited in this Agreement, Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, Covered Entity, provided that such use or disclosure by would not violate the Privacy Rule if done by Covered Entity.

4. Indemnification

Business Associate hereby agrees to indemnify, defend and hold harmless the Covered Entity (including without limitation, its employees, elected officials, agents, successors and assigns) from and against any and all claims, causes of action, liabilities, damages, costs or expenses (including, without limitation, fines, penalties, attorney's fees, court costs, costs of administrative or other proceedings, and costs of investigation) arising out of or related to a breach of any of the terms and provisions of this Agreement by Business Associate or any party acting by or through Business Associate (including, without limitation, Business Associate's agents, employees, representatives, contractors or subcontractors).

5. Obligations of Covered Entity

Covered Entity shall:

(a) Make available to Business Associate, the notice of privacy practices, and changes thereto, that Covered Entity produces in accordance with 45 CFR 164.520.

(b) Provide Business Associate with any changes in, or revocation of, permission by Individual, to use or disclose Protected Health Information, if such changes affect Business Associate's permitted or required uses and disclosures.

(c) Notify Business Associate of any restriction to the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 CFR 164.522.

6. Permissible Requests by Covered Entity

Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by Covered Entity.

7. Term and Termination

(a) Term. This Agreement shall be effective as of the date of execution hereof, and shall terminate when all of the Protected Health Information is destroyed or returned to Covered

Entity, or, if it is infeasible to return or destroy such Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this section.

(b) Termination for Cause. Upon Covered Entity's actual knowledge of a material breach by Business Associate to the terms of this Agreement, Covered Entity may provide Business Associate with a reasonable opportunity to cure such breach, or terminate this Agreement.

(c) Effect of Termination. (1) Except as provided herein, upon termination of this Agreement, for any reason, Business Associate shall return or destroy all Protected Health Information. This provision shall apply to Protected Health Information in the possession of any agents or subcontractors Business Associate. Business Associate shall not retain any copy(ies) of the Protected Health Information. (2) In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make such return or destruction infeasible. Upon mutual further agreement of the Parties that return or destruction of Protected Health Information is infeasible, Business Associate shall extend the protections of this Agreement to such Protected Health Information and limit all further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

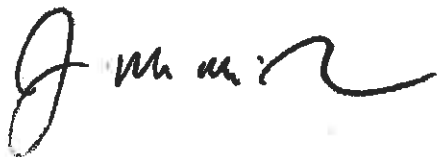
8. Miscellaneous

(a) Regulatory References. Any reference in this Agreement to a section in the Privacy Rule means the section as then in effect, or as amended, and for which compliance is required.

(b) Amendment. The Parties agree to take such action as is necessary to amend this Agreement, from time to time, as is necessary for Covered Entity to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act, Public Law 104-191.

(c) Survival. The respective rights and obligations of Business Associate under this Agreement shall survive the termination of this Agreement.

(d) Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity to comply with the Privacy Rule.



JAMES M. McGRANN
SECRETARY